

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

AMERIQUEST MORTGAGE)	
COMPANY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-04-1404-M
)	
MIGUEL P. HAMILTON and LOIS ANN)	
HAMILTON, Husband and Wife, et al.,)	
)	
Defendants.)	

ORDER

Before the Court are defendants Miguel P. Hamilton and Lois Ann Hamilton's ("the Hamiltons") Motion for Judgment on the Pleadings [docket no. 43] and Motion to Strike Plaintiff's Response to Defendant's Motion for Judgment on the Pleadings [docket no. 46].

Motion to strike

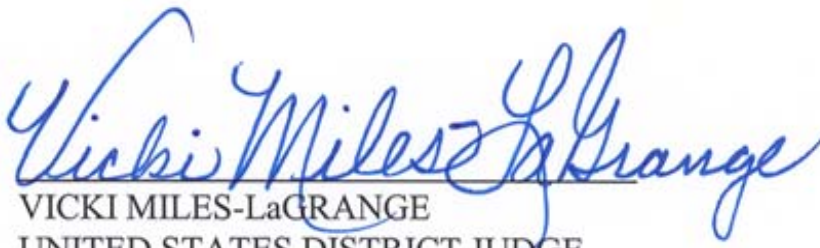
The Hamiltons move to strike plaintiff's response to their motion for judgment on the pleadings. Having carefully reviewed the Hamiltons' motion, the Court finds that they have set forth no basis for striking plaintiff's response. Accordingly, the Court DENIES the Hamiltons' Motion to Strike Plaintiff's Response to Defendant's Motion for Judgment on the Pleadings [docket no. 46].

Motion for judgment on the pleadings

The Hamiltons move for judgment on the pleadings based on (1) plaintiff's failure to comply with the Court's previous orders, (2) plaintiff's lack of service on the Hamiltons, and (3) plaintiff's failure to answer. Having carefully reviewed the Hamiltons' motion, the Court finds that they are not entitled to judgment on the pleadings. Specifically, the Court finds that while plaintiff has not always adequately complied with the Court's prior orders, such failure does not warrant dismissal of the instant action. Further, the Court finds that plaintiff has submitted sufficient evidence

indicating that the Hamiltons have been properly served. *See* Proofs of Service attached as Exhibit A to plaintiff's response to the Hamiltons' motion for judgment on the pleadings.¹ Finally, the Court finds that the Hamiltons have not filed any claim to which plaintiff was required to answer.² Accordingly, the Court DENIES the Hamiltons' Motion for Judgment on the Pleadings [docket no. 43].

IT IS SO ORDERED this 4th day of May, 2006.



VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE

¹The proofs of service attached as Exhibit A to plaintiff's response have not been filed in this Court; they were, however, improperly filed in state court many months after this action was removed to this Court. Plaintiff is hereby DIRECTED to file said proofs of service in this Court.

²In fact, a review of the court file in this matter reveals that it is the Hamiltons who have failed to file an answer in this case.